

DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

JOHN SCHULTERBRANDT, SR.)	
)	
Plaintiff,)	
)	
v.)	Civil No. 2017-7
)	
REINALDO ROSARIO PAGAN, RMR)	
CONSTRUCTION,)	
)	
Defendants.)	
)	

APPEARANCES:

Martial A. Webster

Law Offices of Martial A. Webster Sr.
St. Croix, U.S.V.I.
For John Schulerbrandt, Sr..

ORDER

GÓMEZ, J.

Before the Court is the motion of John Schulerbrandt, Sr. ("Schulerbrandt") for attorney's fees and costs.

On January 26, 2017, Schulerbrandt brought an action for debt and breach of contract against Reinaldo Rosario Pagan ("Pagan") and RMR Construction ("RMR"). Neither Pagan nor RMR filed an answer to Schulerbrandt's complaint or otherwise appeared in this action. On December 20, 2017, the Clerk of Court entered default against Pagan and RMR. On September 14, 2018, the Court entered default judgment against Pagan and RMR.

On September 27, 2018 Schulterbrandt filed a motion for attorney's fees and costs. Schulterbrandt sought \$7,890 in attorney's fees along with \$912.50 in costs. The Court referred the motion to the Magistrate Judge for a Report and Recommendation.

On September 9, 2019, the Magistrate issued a Report and Recommendation on Schulterbrandt's motion for attorney's fees and costs. The Magistrate recommended awarding Schulterbrandt \$5,250 in attorney's fees and \$600 in costs.

With respect to attorney's fees, the Magistrate noted that Schulterbrandt provided support for \$5,250 in attorney's fees that had accrued prior to July 15, 2018. Schulterbrandt also sought fees for work done after this period but had failed to provide any support for those fees. Accordingly, the Magistrate recommended awarding Schulterbrandt only the \$5,250 in attorney's fees. With respect to costs, the Magistrate found that \$600 of Schulterbrandt's requested costs were allowable and reasonable.

Schulterbrandt has not objected to or otherwise responded to the Magistrate's Report and Recommendation.

Litigants may make "specific written objections" to a magistrate judge's report and recommendation "[w]ithin 14 days after being served with a copy of the recommended disposition." See Fed. R. Civ. P. 72(b)(2); see also 28 U.S.C. § 636(b)(1)

("Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court.").

When a party makes a timely objection, the district court "make[s] a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* When no objection to a magistrate's report and recommendation is made, or such an objection is untimely, the district court reviews the report and recommendation for plain error. See *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) ("While . . . [28 U.S.C. § 636(b)(1)] may not require, in the absence of objections, the district court to review the magistrate's report before accepting it, we believe that the better practice is for the district judge to afford some level of review to dispositive legal issues raised by the report."); see also *Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006) *aff'd*, 276 Fed. App'x 125 (3d Cir. 2008) (explaining that, by failing to object to a portion of a report and recommendation, the litigant "waived its right to have this Court conduct a *de novo* review," and that in those circumstances, "the scope of [the court's] review is far more limited and is conducted under the far more deferential standard of 'plain error' ").

Because Schulterbrandt did not object to the Magistrate's Report and Recommendation within 14 days, the Court will review the Report and Recommendation for clear error. Having reviewed the record, the Court agrees with the Magistrate's recommendations and finds no error, let alone plain error.

The premises considered, it is hereby

ORDERED that the Report and Recommendation docketed at ECF Number 36 is **ADOPTED**; it is further

ORDERED that the motion for attorney's fees and costs docketed at ECF Number 34 is **GRANTED** in part and **DENIED** in part; it is further

ORDERED that Reinaldo Rosario Pagan and RMR Construction shall be liable to John Schulterbrandt, Sr., for attorney's fees in the amount of \$5,250; and it is further

ORDERED that Reinaldo Rosario Pagan and RMR Construction shall be liable to John Schulterbrandt, Sr., for costs in the amount of \$600.

s_____
Curtis V. Gómez
District Judge